

Town of North Andover
ZONING BOARD OF APPEALS

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Ellen P. McIntyre, Vice-Chairman
Richard J. Byers, Esq. Clerk
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Doug Ludgin
Zoning Enforcement Officer
Gerald A. Brown

Approved
March
12,
13

DRAFT MINUTES
Tuesday, January 8, 2013 at 7:30 PM
Town Hall 120 Main Street, North Andover, Massachusetts

Members present: Albert Manzi III, Esq., Ellen McIntyre, Richard Byers, D. Paul Koch Jr., Esq. and Allan Cuscia

Associate Member: Doug Ludgin, Michael Liporto and Deney Morganthal

Also in attendance: Zoning Enforcement Officer: Gerald Brown

Manzi called the meeting to order at 7:38.

Manzi commented on all the new technical recording equipment regarding the new microphones, new camera equipment and projectors that we now have in the Town Hall Meeting Room.

Pledge of Allegiance

Acceptance of Minutes for December 8th, 2012

McIntyre made the motion to approve the Minutes

Byers Second the motion.

Those voting in favor to approve the minutes were Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

Committee Report

Committee Report Merrimack Valley Planning Commission Report

Richard Byers stated that he has nothing new to report this month regarding the MVPC

Committee Report Housing Partnership Report

Ellen McIntyre stated that that they are planning on meeting sometime in January and they will be discussing the upcoming Comprehensive Permit on Berry Street.

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Continued Public Hearings

Variance GB-Zoning District, William Yameen, Angus Realty Corp, 1077 Osgood Street (Map 35, Parcel 27)

Manzi stated that earlier today a workshop was scheduled regarding the Butcher Boy project. Manzi listed out verbally those that were present at this workshop. Manzi went on to say that this workshop was very informative.

Matt Caffrey who is representing his client, **Angus Realty Corp at 1077 Osgood Street (Butcher Boy)** walked up to the podium.

Caffrey reminded the Board on what his client was proposing to do, stating his client would like to construct a bank at the Butcher Boy Plaza; the bank would be the Pentucket Bank. A Variance is requested, because they plan on constructing this bank in the watershed.

Caffrey agreed with Manzi that the scheduled workshop was helpful and informative to all who attended the workshop. Caffrey stated that his client also felt the same way.

Caffrey also talked of the stormwater report and stated from what he could see that there was no impact. Caffrey was asked at the last meeting of the history regarding permits for the Butcher Boy Plaza, and that he looked but found nothing limiting future construction in this plaza.

The other issue addressed at the last meeting was regarding a fence. The Board wanted the fence to be shown on the plan.

The engineer for the project, Richard Barthelmes, pointed out on the plan where the fence was going to be situated at the proposed project for the bank.

Caffrey also talked of the available 21 parking spaces for the bank.

He stated how it was calculated, 5 spaces per 1,000 square feet. Caffrey stated when you do the math 19 parking spots are needed, so they are up two parking spots, with 21 parking spots.

Barthelmes, spoke of the underground detention system and that there would not be any increase in water runoff. Barthelmes stated that the goal is to infiltrate on site. Caffrey also talked of the perk test on the site, and that they still need to meet with Planning to satisfy their requirements.

Cuscia commented of the retention pond that was going to be filled in, Barthelmes added to Cuscia's comment that there has never been water in that retention pond.

Ken Cran, with Bayside engineering walked up to the podium. Cran stated he worked on the traffic study for the project. He talked of the traffic counts conducted, the times of day, and days they were done and how they followed the state guidelines regarding these specific traffic studies. He also spoke of the entrances and stop signs. But Cran felt for the most part, things seem to operate pretty well.

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Manzi asked how many days were spent to gather this information regarding the traffic study. Cran responded that this traffic study went on for roughly about three days, and Cran also pointed out that they used an automatic traffic reporter.

McIntyre questioned what the banks hours would be. They replied back with, 8:30 -5:00 Monday-Thursday and Friday 8:30-6:00 and Saturday 8:30-1:00.

Caffrey returned back to the podium and asked if the Board had any further questions to ask. Manzi was happy to hear the outcome of the traffic study and was pleased with all that was presented at tonight's meeting.

Byers agreed with Manzi and stated that the applicant demonstrated all that was requested of them and answered all that the Board asked of them. Byers also stated that they are in the right district, so this project makes sense.

McIntyre asked if they needed a Special Permit to add an additional building at the plaza. Brown spoke up and stated that they only needed a Variance for the watershed.

Manzi stated he has a lot of faith in the Planning and Conservation process (once they get to these Boards) and that they will do the right thing with this project.

Manzi asked if any abutters were here for or against this petition. No one got up to speak.

Byers made a motion to close the hearing

Koch second the motion

Those voting in favor to close the hearing were Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

Byers made a motion to grant the Variance under Section 4.136, (Watershed Protection Division) and 4.136 c.ii(3), of the Zoning Bylaws to Angus Realty Trust to construct a Bank in the GB Zoning District. Byers referenced all the plans, documents and studies that were in front of him.

Cuscia, second the motion to grant the Variance.

Those voting in favor to grant the Variance were Manzi, McIntyre, Byers, and Cuscia.

Those voting against the Variance, Koch

4-1 approved.

The up to date Mylar was not submitted at tonight's meeting, but will be dropped off at the Zoning Board department as soon as possible.

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Variance R-1, 100 Dales Street (Map 37.B Parcel 9) Joseph O'Connell

Phil Christiansen, architect for the applicant, Joseph O'Connell walked up to the podium and stated to the Board what his client was requesting.

O'Connell would like to divide his existing 4 acre parcel of land that he owns into two lots, but seeks relief on frontage requirements in an R-1 Zoning District. O'Connell meets area requirements, just not frontage. He is seeking a Variance.

As requested by the board at the last meeting, Christiansen presented to the board where the proposed homes would be located on the 2 lots, if approved. Christensen pointed out Berrington Place subdivision in relation to O'Connell property.

Koch asked about side setbacks.

Christiansen stated that this plan went to planning first, but is contingent on zoning approval.

Manzi asked if any abutters wanted to speak.

Dinnelle Bere, of 40 Berrington Place walked up to the podium and submitted a picture showing a significant degree of her privacy would be impacted. She also did not like the positions of the proposed homes. Bere also talked of other issues such as drainage issues, watershed, tree clearing, privacy, character of neighborhood, and also felt that the Town's Zoning Bylaws needs to be adhered to.

Christiansen returned back to the podium and reiterated what he stated at the last meeting that O'Connell never complained about his privacy issues when Berrington Place was being built.

Michelle Rotter, of 59 Berrington Place walked up to the podium and stated that she recently moved to this neighborhood for the lot size and privacy. She was concerned with how this would affect conservation and the wetlands.

Manzi stated that they would need to see Conservation and Planning before any construction would begin.

Byers made a motion to close the public hearing

Cuscia second the motion.

Those voting in favor to close the hearing were Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

Cuscia made a motion to Grant the Variance for the Dimensional Requirements (Section 7) 7.1.2, 7.1.3.2, 7.2 and 7.2.2 of the Zoning Bylaws, in an R-1 Zoning District. Cuscia referenced all the plans and associated information that was in front of him. Cuscia referenced the relief for Lot 1, **98.11 feet**, and Lot 2, **23.19 feet** for the frontage Variance.

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Byers second the motion.

Those voting in favor to Grant the Variance were Manzi, McIntyre, Byers, Koch and Cuscia.
5-0 approved.

Special Permit R-4, V. Scott Follansbee, 50 Martin Avenue (Map 45G Lot 36)

Atty. John Burke walked up to the podium stating that he is representing Scott Follansbee, he is requesting a Special Permit to construct a new single family home to the already existing single family home.

Burke stated that he is here with the engineer for the project; Ben Osgood Jr.

Burke spoke of the various times he was in front of this board regarding this property and proposed projects on the lot(s) that had been submitted. Now he is here because his client would like to attach another unit to the existing structure.

Burke told the Board that this proposed structure is similar in styles but smaller then the existing structure. He also talked of the neighborhood and submitted pictures of the types of homes in the neighborhood.

McIntyre asked of the proposed length, Osgood responded that it is 132 feet in length.

Bernadette Curran, of 223 Forest Street walked up to the podium and stated that she is speaking for her mother, Bernadette Dubois who lives at 53 Martin Avenue. Curran read parts of the bylaws to support her opposition of this project, and how the percentage of the proposed attached project is too large a size in comparison to the existing structure. Curran talked of the location of the garage and setback of the garage from the street. Curran also referenced the shared (proposed) connected common wall. All this was referenced under Section 4 of the Zoning Bylaws, 4.122 (residential 4 District). Curran then referenced the Special Permit application that was used to apply for this proposed project. Curran spoke of the last page of this application, under item 10A, iii, major projects, to also support her opposition of the project.

With this being said Curran requested the Board to please deny this proposed project on Martin Ave.

Paul Dubois, 75 Meadow Lane also was against this proposed project and stated that his mother is Bernadette Dubois, of 53 Martin Avenue and agrees with his sister, Curran.

Stephen Manning, of 64 Martin Avenue also opposed the project and wants the Board to deny it.

Stuart Miller, of 93 Martin Avenue stated that he loves the neighborhood and the neighbors but opposes the proposed project of attaching another unit to the existing home.

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John Mendonca, of 49 Martin Avenue showed an aerial photo to the Board. Stating the proposed project is twice the size of every home in the neighborhood. Mendonca opposes this project and agrees with Curran and also encouraged the Board to vote against this proposed project.

Burke stated he would like to talk this over with his client and possibly be heard at the next meeting.

Cuscia suggested that the project should be made smaller.

Byers made a motion to close the hearing and continue at the next meeting for February 12, 2013.

Cuscia Second the motion

Voting in favor to continue this hearing for February; Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

With that being said Burke signed the continuation form.

Discussions Tom Urbelis on Comprehensive Permits

Tom Urbelis, Town Counsel for the Town of North Andover walked up to the podium and stated he was asked by the Chairman of this Board to discuss the general rules of the Comprehensive Permits, otherwise known as 40B's.

Chapters 40B, Sections 20 through 23 are the key elements to the comprehensive permit project. Urbelis passed out booklets to all of the board members regarding the Comprehensive Rules and Regulations.

Urbelis spoke to the Board and stated that the Zoning Board acts as many boards, and has that responsibility during the comprehensive permit process.

Urbelis talked of towns and cities providing affordable needed housing for lower and moderate incomes.

Urbelis talked of the 10% of affordable housing that needs to be met. In the case of denial on a Comprehensive Permit it must be consistent with local needs, health, safety issues, environmental, open spaces and also if the 10% of affordable has already been met. Urbelis stated also, if it is considered a large project of 5,000 to 7,000 units it can be denied. Urbelis stressed to the Board that these local concerns must out weigh the local housing concerns.

Urbelis spoke on many various items such as the process, procedures, abutters, decisions, appeals and peer reviewers regarding the Comprehensive Permit.

Urbelis mentioned various 40B cases in different cities and towns and how issues and concerns were dealt with.

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He also talked of the grants available to the towns and cities to help them through the Comprehensive Permit procedure, and urged the town to apply for the grant.
He spoke of the type of assistance and help this grant will provide the town with.
The Board asked various questions to Urbelis.

Discussions Zoning Board's Annual election

McIntyre made a motion to continue with all the Board Members as is, and to also remain in their same position.

Cuscia second the motion

All were in favor to continue with all the same members, and positions to remain as is, Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

Adjournment: 10:35

McIntyre made a motion to adjourn the meeting

Byers second the motion

All were in favor to adjourn the meeting Manzi, McIntyre, Byers, Koch and Cuscia.

5-0